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In re Application of
KLAUCK, et al.
Application No.: 10/796,807
PCT No.: PCT/EP02/08746
Int. Filing Date: 06 August 2002
Priority Date: 08 August 2001
Atty. Docket No.: H5333 PCT/US
For: DEVICE AND METHOD FOR APPLYING A
SOLID SUBSTANCE THAT CAN BE APPLIED
BY THE ACTION OF HEAT

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on applicant's "Petition to Revive Abandoned International Application" originally filed 09 March 2004 and again on 01 November 2004 in the above-captioned application. The petition fee under 37 CFR 1.17(m) has been paid.

BACKGROUND

On 06 August 2002, applicant filed international application PCT/EP02/08746 which claimed a priority date of 08 August 2001. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the international filing date, 08 February 2004.

On 09 March 2004, applicant filed the present petition to revive pursuant to 37 CFR 1.137(b) accompanied by a continuation application.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

Regarding item (1), applicant has supplied the proper reply in the form of the filing of a continuation application.

As to item (2), the petition fee has been submitted.

With regard to Item (3), applicant's statement that "entire delay in filing the 35 U.S.C. 371(c) requirement from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" and the prompt filing of the petition satisfies the requirement of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

Applicant's petition to revive for the purposes of continuity only is **GRANTED**.

International application PCT/EP02/08746 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned.



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